IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5287 OF 2005
TO
CRIMINAL APPLICATION NO.5324 OF 2005

Shri.V.N.Nadkarni ..Applicant

Vs.

State of Maharashtra & Anr. ..Respondents

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Mr.A.H.H.Ponda Advocate for Applicant
Ms.Y.S.Shinde A.P.P. for State in Cri.Appl.Nos. 5287, 5288, 5319 to 5321 of 2005.
Mr.B.H.Mehta, A.P.P. for State in Cri.Appl.Nos. 5293 to 5295, 5322 and 5324 of 2005.
Mr.R.S.Khadapkar A.P.P. for State in Cri.Appl.Nos.5296 to 5298 of 2005
Ms.S.V.Gajare A.P.P. for State in Cri.Appl.Nos.5299 to 5301 of 2005.
Mr.S.R.Shinde, A.P.P. for State in Cri.Appl.Nos.5302 to 5304, 5312 to 5314 of 2005.
Mr.Rajesh More A.P.P. for State in Cri.Appl.Nos. 5305 to 5307 of 2005
Mr.D.P.Adsule, A.P.P. for State in Cri.Appl.Nos. 5290 to 5292, 5308 to 5310, 5316 to 5318 of 2005.
Ms.Rohini Wagh for Respondent No.2

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : AUGUST 30,2005

P.C.

1. Heard the learned advocate for the applicant

and the learned Advocate for the Respondent no.2 i.e. original complainant in all the matters.

2. The applicant is seeking quashing of process issued by the learned Spl.Metropolitan Magistrate, Court Room No.25 Mumbai in C.C.Nos.1836/S/2002 (Old Case No.1605/S/1998), No.1838/S/2002 (Old Case No.1603/S/1998), 4425/S/2002 (Old Case No.1558/S/1998), 4417/S/2002 (Old Case No.1550/S/1998), 4426/S/2002 (Old Case No.1559/S/1998), 2113/S/2002 (Old Case No.1584/S/1998), 4414/S/2002, (Old Case No.1547/S/1998), 2106/S/2002 (Old Case No.1573/S/1998), 4440/S/2002 (Old Case No.1770/S/1998), 4437/S/2002 (Old Case No.1767/S/1998), 2098/S/2002 (Old Case No.1587/S/1998), 2092/S/2002 (Old Case No.1594/S/1998), 2100/S/2002 (Old Case No.1585/S/1998), 2091/S/2002 (Old Case No.1576/S/1998), 4447/S/2002 (Old Case No.1777/S/1998), 2084/S/2002 (Old Case No.1577/S/1998), 4424/S/2002 (Old Case No.1557/S/1998), 2087/S/2002 (Old Case No.1580/S/1998), 4428/S/2002 (Old Case

No.1561/S/1998), 4446/S/2002 (Old Case No.1776/S/1998), 4416/S/2002 (Old Case No.1549/S/1998), 4430/S/2002 (Old Case No.1760/S/1998), 2107/S/2002 (Old Case No.1572/S/1998), 2085/S/2002 (Old Case No.1578/S/1998), 1849/S/2002 (Old Case No.1905/S/1998), 2105/S/2002 (Old Case No.1574/S/1998), 4413/S/2002 (Old Case No.1546/S/1998), 4476/S/2002 (Old Case No.1615/S/1998), 4418/S/2002 (Old Case No.1551/S/1998), 4423/S/2002 (Old Case NO.1556/S/1998), 4438/S/2002 (Old Case No.1768/S/1998), 4415/S/2002 (Old Case No.1548/S/1998), 2086/S/2002 (Old Case No.1579/S/1998), 4444/S/2002 (Old Case No.1774/S/1998), 2104/S/2002 (Old Case No.1575/S/1998), 4419/S/2002 (Old Case No.1552/S/1998), 2099/S/2002 (Old Case No.1586/S/1998), and 1834/S/2002 (Old Case No.1607/S/1998). In the said cases process is issued under Section 138 of N.I.Act.

3. The applicant had preferred applications for recalling of process before the learned Magistrate.

The learned Magistrate has rejected the said applications. In view of the decision of the Supreme Court in the case of **Adalat Prasad Vs. Rooplal Jindal reported in 2004(4) Mh.L.J.274**, it is clear that the Magistrate has no power to recall the process. In this view of the matter though the Magistrate has rejected the applications for recall of process, I am not inclined to interfere with the said order.

4. However, for the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, I am of the opinion that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers revisions before the concerned Sessions Court against the order of the Magistrate issuing process.

5. Liberty is granted to the applicant to prefer the necessary revisions before the concerned Sessions Court. It is made clear that the

revisions shall be preferred in respect of order of the Magistrate issuing process and not in respect of order rejecting the applications for recall of process. The learned advocate for the applicant makes a statement that the necessary revisions will be preferred within five weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of five weeks. The learned advocate for the respondent no.2-original complainant fairly states that no objection will be raised in respect of delay in filing of revisions.

6. On the necessary revisions being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matters on merits expeditiously after hearing the necessary parties.

7. Criminal Applications are disposed of.

8. Authenticated copy be issued to the parties.

[V.K.TAHILRAMANI,J.]